



General Assembly

February Session, 2006

***Raised Bill No. 5781***

LCO No. 3003

\*03003\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING CERTIFICATES OF EMPLOYABILITY AND  
REHABILITATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) For the purposes of  
2 sections 1 to 6, inclusive, of this act:

3 (1) "Barrier" means a denial of employment or a license based on an  
4 eligible offender's conviction of a crime without due consideration of  
5 whether the nature of the crime bears a direct relationship to such  
6 employment or license;

7 (2) "Certificate of employability" means a document issued to an  
8 eligible offender by the Superior Court or the Board of Pardons and  
9 Paroles pursuant to section 3 or 4 of this act;

10 (3) "Eligible offender" means a person who has been convicted of a  
11 crime or crimes in this state or another jurisdiction and who is a  
12 resident of this state;

13 (4) "Forfeiture" means a disqualification or ineligibility for  
14 employment or a license by reason of law based on an eligible

15 offender's conviction of a crime;

16 (5) "Employment" means any remunerative work, occupation or  
17 vocation or any form of vocational training, but does not include  
18 employment with a law enforcement agency;

19 (6) "Employer" means the state and any political subdivision of the  
20 state; and

21 (7) "License" means any license, permit, certificate or registration  
22 that is required to be issued by the state or any of its agencies to  
23 pursue, practice or engage in an occupation, trade, vocation, profession  
24 or business.

25 Sec. 2. (NEW) (*Effective October 1, 2006*) The Superior Court and the  
26 Board of Pardons and Paroles may issue a certificate of employability  
27 pursuant to section 3 or 4 of this act, as the case may be, to relieve an  
28 eligible offender of barriers or forfeitures by reason of such person's  
29 conviction of the crime or crimes specified in such certificate. Such  
30 certificate may be limited to one or more enumerated barriers or  
31 forfeitures or may relieve the eligible offender of all barriers and  
32 forfeitures. No certificate shall apply or be construed to apply to the  
33 right of such person to retain or be eligible for public office.

34 Sec. 3. (NEW) (*Effective October 1, 2006*) (a) Any superior court may,  
35 in its discretion, issue a certificate of employability in accordance with  
36 this section to an eligible offender for a conviction that occurred in the  
37 superior court or in a court of another jurisdiction if the court imposed  
38 a sentence that did not involve commitment to the custody of the  
39 Commissioner of Correction or imposed a sentence of a term of  
40 imprisonment with commitment to the custody of the Commissioner  
41 of Correction for two years or less. Such certificate may be issued at the  
42 time of sentencing or at any time after sentencing, upon verified  
43 application by the eligible offender.

44 (b) The court shall not grant a certificate of employability unless the

45 court is satisfied that:

46 (1) The person to whom the certificate is to be granted is an eligible  
47 offender;

48 (2) The relief to be granted by the certificate may promote the public  
49 policy of rehabilitation of ex-offenders through employment; and

50 (3) The relief to be granted by the certificate is consistent with the  
51 public interest in public safety and the protection of property.

52 (c) In accordance with the provisions of subsection (b) of this  
53 section, the court may limit the applicability of the certificate of  
54 employability to specified types of employment or licenses for which  
55 the eligible offender is otherwise qualified.

56 (d) The court may, for the purpose of determining whether such  
57 certificate should be issued, request the Court Support Services  
58 Division to conduct an investigation of the applicant and submit to the  
59 court a report of its investigation. Any written report submitted to the  
60 court pursuant to this subsection shall be confidential and not  
61 disclosed except where required or permitted by any provision of the  
62 general statutes or upon specific authorization of the court. The court  
63 may make such report available for examination by the applicant or  
64 the applicant's attorney and afford the applicant or the applicant's  
65 attorney an opportunity to controvert or comment upon any portion of  
66 the report.

67 (e) If the court has imposed a sentence of a term of imprisonment,  
68 with the execution of such sentence of imprisonment suspended  
69 entirely or after a period set by the court, and a period of probation or  
70 conditional discharge, and a certificate of employability is issued prior  
71 to the completion of such period of probation or conditional discharge,  
72 the certificate shall be deemed to be a temporary certificate until the  
73 person completes such person's period of probation or conditional  
74 discharge or such period of probation or conditional discharge is

75 terminated for a violation of any of the conditions of such person's  
76 probation or conditional discharge. During the period that such  
77 certificate is temporary, the court (1) may revoke such certificate for  
78 violation of the conditions of such person's probation or conditional  
79 discharge, and (2) shall revoke such certificate if the court revokes such  
80 person's probation or conditional discharge and commits the person to  
81 the custody of the Commissioner of Correction. Prior to any such  
82 revocation, the court shall give such person notice and an opportunity  
83 to be heard. If the certificate of employability is not revoked, it shall  
84 become a permanent certificate upon completion of such person's  
85 period of probation or conditional discharge.

86 (f) Any court that has issued a certificate of employability may at  
87 any time issue a new certificate to enlarge the relief previously  
88 granted, and the provisions of subsections (a) to (e), inclusive, of this  
89 section shall apply to the issuance of any new certificate.

90 Sec. 4. (NEW) (*Effective October 1, 2006*) (a) The Board of Pardons  
91 and Paroles may, in its discretion, issue a certificate of employability to  
92 an eligible offender who has been committed to the custody of the  
93 Commissioner of Correction for more than two years. The board may  
94 issue such certificate at the time the board releases such person on  
95 parole or at any time thereafter, upon verified application of such  
96 person.

97 (b) The board shall not grant a certificate of employability unless the  
98 board is satisfied that:

99 (1) The person to whom the certificate is to be granted is an eligible  
100 offender;

101 (2) The relief to be granted by the certificate may promote the public  
102 policy of rehabilitation of ex-offenders through employment; and

103 (3) The relief to be granted by the certificate is consistent with the  
104 public interest in public safety and the protection of property.

105 (c) In accordance with the provisions of subsection (b) of this  
106 section, the board may limit the applicability of the certificate of  
107 employability to specified types of employment or licenses for which  
108 the eligible offender is otherwise qualified.

109 (d) The board may, for the purpose of determining whether such  
110 certificate should be issued, request its staff to conduct an investigation  
111 of the applicant and submit to the board a report of the investigation.  
112 Any written report submitted to the board pursuant to this subsection  
113 shall be confidential and not disclosed except where required or  
114 permitted by any provision of the general statutes or upon specific  
115 authorization of the board. The board may make such report available  
116 for examination by the applicant or the applicant's attorney and afford  
117 the applicant or the applicant's attorney an opportunity to controvert  
118 or comment upon any portion of the report.

119 (e) If a certificate of employability is issued by the board while an  
120 eligible offender is under the board's supervision, the certificate shall  
121 be deemed to be a temporary certificate until the person completes  
122 such person's period of parole and is discharged from the board's  
123 supervision. During the period that such certificate is temporary, the  
124 board may revoke such certificate for violation of the conditions of  
125 such person's parole. Prior to any such revocation, the board shall give  
126 such person notice and an opportunity to be heard. If the certificate is  
127 not revoked, it shall become a permanent certificate upon completion  
128 of such person's period of parole and discharge from the board's  
129 supervision.

130 (f) The board may at any time issue a new certificate to enlarge the  
131 relief previously granted, and the provisions of subsections (a) to (e),  
132 inclusive, of this section shall apply to the issuance of any new  
133 certificate.

134 Sec. 5. (NEW) (*Effective October 1, 2006*) The application for a  
135 certificate of employability, the certificate of employability and the  
136 revocation of a certificate of employability shall be in such form and

137 contain such information as the Board of Pardons and Paroles and the  
138 Chief Court Administrator together shall prescribe.

139       Sec. 6. (NEW) (*Effective October 1, 2006*) (a) Each state agency that  
140 issues licenses shall collect and maintain data on the number of eligible  
141 offenders who (1) presented a certificate of employability and were (A)  
142 issued a license, or (B) denied a license, and (2) did not present a  
143 certificate of employability and were (A) issued a license, or (B) denied  
144 a license.

145       (b) The Chief Court Administrator and the Board of Pardons and  
146 Paroles shall collect and maintain data on the number of eligible  
147 offenders who (1) applied for a certificate of employability, and (2)  
148 were (A) issued a certificate, and (B) denied a certificate.

149       Sec. 7. Section 46a-80 of the general statutes is repealed and the  
150 following is substituted in lieu thereof (*Effective October 1, 2006*):

151       (a) Except as provided in subsection (b) of this section and  
152 subsection (b) of section 46a-81, and notwithstanding any other  
153 provisions of law to the contrary, a person shall not be disqualified  
154 from employment by the state of Connecticut or any of its agencies,  
155 nor shall a person be disqualified to practice, pursue or engage in any  
156 occupation, trade, vocation, profession or business for which a license,  
157 permit, certificate or registration is required to be issued by the state of  
158 Connecticut or any of its agencies solely because of a prior conviction  
159 of a crime.

160       (b) A person may be denied employment by the state or any of its  
161 agencies, or a person may be denied a license, permit, certificate or  
162 registration to pursue, practice or engage in an occupation, trade,  
163 vocation, profession or business by reason of the prior conviction of a  
164 crime if after considering (1) the nature of the crime and its  
165 relationship to the job for which the person has applied; (2)  
166 information pertaining to the degree of rehabilitation of the convicted  
167 person; and (3) the time elapsed since the conviction or release, the

168 state [.] or any of its agencies determines that the [applicant is not  
169 suitable for the position of employment sought or the specific  
170 occupation, trade, vocation, profession or business for which the  
171 license, permit, certificate or registration is sought] nature of the crime  
172 has a direct bearing on such person's fitness or ability to perform one  
173 or more of the duties and responsibilities necessarily related to the  
174 employment or license, permit, certificate or registration sought, the  
175 person is not sufficiently rehabilitated or insufficient time has elapsed  
176 since the conviction or release. In making a determination pursuant to  
177 this subsection, the state or any of its agencies shall also give  
178 consideration to a certificate of employability issued pursuant to  
179 section 3 or 4 of this act, which certificate shall create a presumption of  
180 rehabilitation and passage of sufficient time since the conviction or  
181 release with respect to the crime or crimes specified in the certificate.

182 (c) If a conviction of a crime is used as a basis for rejection of an  
183 applicant, such rejection shall be in writing and specifically state the  
184 evidence presented and reasons for rejection. A copy of such rejection  
185 shall be sent by registered mail to the applicant.

186 (d) In no case may records of arrest, which are not followed by a  
187 conviction, or records of convictions, which have been erased, be used,  
188 distributed or disseminated by the state or any of its agencies in  
189 connection with an application for employment or for a permit, license,  
190 certificate or registration.

191 Sec. 8. Section 46a-99 of the general statutes is repealed and the  
192 following is substituted in lieu thereof (*Effective October 1, 2006*):

193 Any person claiming to be aggrieved by a violation of any provision  
194 of sections 46a-70 to 46a-78, inclusive, section 46a-80, as amended by  
195 this act, or sections 46a-81h to 46a-81o, inclusive, may petition the  
196 Superior Court for appropriate relief and said court shall have the  
197 power to grant such relief, by injunction or otherwise, as it deems just  
198 and suitable.

199 Sec. 9. Section 54-130a of the general statutes is repealed and the  
200 following is substituted in lieu thereof (*Effective October 1, 2006*):

201 (a) Jurisdiction over the granting of, and the authority to grant,  
202 commutations of punishment or releases, conditioned or absolute, in  
203 the case of any person convicted of any offense against the state and  
204 commutations from the penalty of death shall be vested in the Board of  
205 Pardons and Paroles.

206 (b) Said board shall have authority to grant pardons, conditioned,  
207 provisional or absolute, for any offense against the state at any time  
208 after the imposition and before or after the service of any sentence.

209 (c) Whenever the board grants an absolute pardon to any person,  
210 the secretary of said board shall cause notification of such pardon to be  
211 made in writing to the clerk of the court in which such person was  
212 convicted, or the Office of the Chief Court Administrator if such  
213 person was convicted in the Court of Common Pleas, the Circuit  
214 Court, a municipal court, or a trial justice court.

215 (d) Whenever the board grants a provisional pardon to any person,  
216 it shall issue a certificate of rehabilitation to such person. The secretary  
217 of the board shall cause notification of such pardon to be made in  
218 writing to the clerk of the court in which such person was convicted.  
219 The granting of a provisional pardon and the issuance of a certificate  
220 of rehabilitation does not entitle such person to erasure of the record of  
221 the conviction of the offense or relieve such person from disclosing the  
222 existence of such conviction as may be required. The chairperson of the  
223 board, in consultation with the executive director, shall adopt  
224 regulations in accordance with chapter 54 concerning the application  
225 process for and criteria for the granting of provisional pardons.

226 Sec. 10. Section 31-51i of the general statutes is repealed and the  
227 following is substituted in lieu thereof (*Effective October 1, 2006*):

228 (a) For the purposes of this section, "employer" means any person



229 engaged in business who has one or more employees, including the  
230 state or any political subdivision of the state.

231 (b) No employer or an employer's agent, representative or designee  
232 may require an employee or prospective employee to disclose the  
233 existence of any arrest, criminal charge or conviction, the records of  
234 which have been erased pursuant to section 46b-146, 54-76o or 54-142a.

235 (c) An employment application form that contains any question  
236 concerning the criminal history of the applicant shall contain a notice,  
237 in clear and conspicuous language: (1) That the applicant is not  
238 required to disclose the existence of any arrest, criminal charge or  
239 conviction, the records of which have been erased pursuant to section  
240 46b-146, 54-76o or 54-142a, (2) that criminal records subject to erasure  
241 pursuant to section 46b-146, 54-76o or 54-142a are records pertaining to  
242 a finding of delinquency or that a child was a member of a family with  
243 service needs, an adjudication as a youthful offender, a criminal charge  
244 that has been dismissed or nolle, a criminal charge for which the  
245 person has been found not guilty or a conviction for which the person  
246 received an absolute pardon, and (3) that any person whose criminal  
247 records have been erased pursuant to section 46b-146, 54-76o or 54-  
248 142a shall be deemed to have never been arrested within the meaning  
249 of the general statutes with respect to the proceedings so erased and  
250 may so swear under oath.

251 (d) No employer or an employer's agent, representative or designee  
252 shall deny employment to a prospective employee solely on the basis  
253 that the prospective employee had a prior arrest, criminal charge or  
254 conviction, the records of which have been erased pursuant to section  
255 46b-146, 54-76o or 54-142a or that the prospective employee had a prior  
256 conviction for which the prospective employee has received a  
257 provisional pardon pursuant to section 54-130a, as amended by this  
258 act.

259 (e) No employer or an employer's agent, representative or designee  
260 shall discharge, or cause to be discharged, or in any manner

261 discriminate against, any employee solely on the basis that the  
262 employee had, prior to being employed by such employer, an arrest,  
263 criminal charge or conviction, the records of which have been erased  
264 pursuant to section 46b-146, 54-76o or 54-142a or that the employee  
265 had, prior to being employed by such employer, a prior conviction for  
266 which the prospective employee has received a provisional pardon  
267 pursuant to section 54-130a, as amended by this act.

268 (f) The portion of an employment application form which contains  
269 information concerning the criminal history record of an applicant or  
270 employee shall only be available to the members of the personnel  
271 department of the company, firm or corporation or, if the company,  
272 firm or corporation does not have a personnel department, the person  
273 in charge of employment, and to any employee or member of the  
274 company, firm or corporation, or an agent of such employee or  
275 member, involved in the interviewing of the applicant.

276 (g) Notwithstanding the provisions of subsection (f) of this section,  
277 the portion of an employment application form which contains  
278 information concerning the criminal history record of an applicant or  
279 employee may be made available as necessary to persons other than  
280 those specified in said subsection (f) by:

281 (1) A broker-dealer or investment adviser registered under chapter  
282 672a in connection with (A) the possible or actual filing of, or the  
283 collection or retention of information contained in, a form U-4 Uniform  
284 Application for Securities Industry Registration or Transfer, (B) the  
285 compliance responsibilities of such broker-dealer or investment  
286 adviser under state or federal law, or (C) the applicable rules of self-  
287 regulatory organizations promulgated in accordance with federal law;

288 (2) An insured depository institution in connection with (A) the  
289 management of risks related to safety and soundness, security or  
290 privacy of such institution, (B) any waiver that may possibly or  
291 actually be sought by such institution pursuant to section 19 of the  
292 Federal Deposit Insurance Act, 12 USC 1829(a), (C) the possible or

293 actual obtaining by such institution of any security or fidelity bond, or  
294 (D) the compliance responsibilities of such institution under state or  
295 federal law; and

296 (3) An insurance producer licensed under chapter 701a in  
297 connection with (A) the management of risks related to security or  
298 privacy of such insurance producer, or (B) the compliance  
299 responsibilities of such insurance producer under state or federal law.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>October 1, 2006</i>	New section
Sec. 4	<i>October 1, 2006</i>	New section
Sec. 5	<i>October 1, 2006</i>	New section
Sec. 6	<i>October 1, 2006</i>	New section
Sec. 7	<i>October 1, 2006</i>	46a-80
Sec. 8	<i>October 1, 2006</i>	46a-99
Sec. 9	<i>October 1, 2006</i>	54-130a
Sec. 10	<i>October 1, 2006</i>	31-51i

***Statement of Purpose:***

To promote the rehabilitation of offenders by authorizing the issuance of a certificate of employability to assist eligible offenders in overcoming barriers to being employed or holding state licenses or permits, and to authorize the Board of Pardons and Paroles to grant provisional pardons and certificates of rehabilitation.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*